

24 February 2006

Dr. John Tamblyn  
Chairman  
Australian Energy Market Commission  
Level 16, 1 Margaret Street  
SYDNEY NSW 2000

Dear Dr. Tamblyn,

**National Electricity Amendment (Reform of the Regulatory Test Principles) Rule 2005**

Delta Electricity has considered the rule change relating to the Ministerial Council on Energy (MCE) regulatory test principles and agrees there is a need to improve processes to ensure the application of the regulatory test delivers maximum economic benefit. However, it is not clear how including principles in the National Electricity Rules (the Rules) will deliver this improvement.

A detailed assessment of the rule change has been submitted by a group of Victorian and South Australian generators ("The Group"). Delta agrees with the recommendation in their submission that the regulatory framework would be better served by migrating the entire regulatory test to the Rules. This approach;

1. avoids the difficulty in back-drafting policy level principles from well established procedure;
2. eliminates the risk that even minor changes to the principles may open up an unnecessary review of the regulatory test; and
3. provides the rigour of the rule change process to the regulatory test.

Should the decision be taken to include principles in the Rules then Delta supports the proposed redrafting by the "The Group". In Delta's view the current drafting of the principles does not accurately capture the intent of the regulatory test. This is evidenced by Principle (1) that states that the purpose of the regulatory test is "the identification of new network investment or non-network alternatives". The ACCC's decision on the review of the regulatory test (11 August 2004) more accurately identifies the purpose to be the assessment of regulated network investment proposals only.

The MCE submission indicates that the proposed framework of principles and regulatory test may not ensure consistent outcomes when applied by different parties. Delta is of the view that consistent application is essential and a concise set of guidelines developed in



consultation with the industry would not only strengthen processes but also increase general confidence in the outcomes of any application of the test.

If you require further clarification of Delta's views on this matter please do not hesitate to contact me on (02) 9285 2715.

Yours faithfully,

A handwritten signature in black ink, appearing to read "T. P. Baker", is positioned above the typed name.

Tim Baker  
General Manager/Marketing